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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,295	02/26/2004	John W. Clapper JR.	21365	3436

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1300 I Street NW
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EXAMINER	
TORRES, ALICIA M	

ART UNIT	PAPER NUMBER
3671	

MAIL DATE	DELIVERY MODE
09/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/786,295	CLAPPER, JOHN W.	
	Examiner	Art Unit	
	ALICIA M. TORRES	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins 5,678,332 in view of Kaczmarczyk et al. 5,224,816.

3. Regarding claims 1-7 and 16, Hawkins discloses a grappling assembly for a machine having a boom, comprising:

- A dipper stick (10) pivotally connected to a boom (not shown)
- An implement (11) connected to the dipper stick (10)
- Means (17) for moving the implement (11) relative to the dipper stick (10)
- An arm (B) connected to the underside of the dipper stick (10) and movable between a grappling position and an inoperative position
- Means (F) operatively connecting the underside of the dipper stick (10) and the arm member (B) for pivoting the arm (B) relative to the dipper stick (10)
- Means (30, 34) for detachably latching the arm (B) in the inoperative position including the arm (B) having a transversely extending recess (unnumbered, through which pin 34 extends), as per claim 1; and
- The means (F) for moving the arm (B) is receivable within the arm (B) when the arm (B) is inoperative, as per claim 2; and

- The means (F) for pivoting the arm comprising a fluid actuated cylinder, as per claim 3;
- The arm (B) having a jagged edge (C), as per claim 7;
- Wherein in the inoperative position, the arm member (B) is disposed along an underside of the dipper stick (10).

However, Hawkins fails to disclose wherein the latching means includes the dipper stick having a yieldably biased, transversely displaceable protuberance tripable upon engagement by the arm and receivable in the recess when the arm member is pivoted between the operative and the inoperative position;

- The protuberance has a curved outer surface and biased by a spring seated in the dipper stick, as per claim 4; and
- a bracket having a pair of outwardly, yieldingly biased protuberances
- recesses registerable with the protuberances in a snap-fit manner, as per claim 5; and
- the biasing force exerted on the protuberance sufficient to yieldably bias the protuberance in the recess yet insufficient to retain the protuberance therein upon pivoting from the inoperative to the grappling position, as per claim 6; and

wherein said member having said recess includes an element disposed in a plane perpendicular to the pivotal axis of said arm member and including said protuberance biased in an extended position, engageable with said protuberance in camming relation to cause said protuberance to displace and then be inserted into said recess when said arm member is angularly displaced to said inoperative position, as per claim 16.

Kaczmarczyk et al. teaches the use of an outwardly, yieldingly biased protuberance (54) and recess (60) registerable with the protuberance (54) and tripable upon engagement by the piece (28) and receivable in the recess (60); and

- The protuberance (54) has a curved outer surface (70) and biased by a spring (66) seated in the bracket (42)
- a bracket (42) having a pair of outwardly, yieldingly biased protuberance (54)
- recess (60) registerable with the protuberances (54) in a snap-fit manner
- the biasing force (by spring 66) exerted on the protuberance (54) sufficient to yieldably bias the protuberances (54) in the recess (60) yet insufficient to retain the protuberance (54) in response to pivoting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the connection of Kaczmarczyk et al. on the device of Hawkins in order to provide a releasably retaining coupling.

4. Regarding claims 8-15, Hawkins discloses an assembly comprising:

An arm (B) connected to the underside of the dipper (10);

Means (F) for pivoting the arm (B) for grappling objects;

Means (30, 34) for detachably latching the arm (B) in the inoperative position including the arm (B) having a transversely extending recess (unnumbered), as per claim 8; and

the means (F) for pivoting the arm member (B) being mounted on the underside of the dipper stick (10), as per claim 8; and

The means (F) for moving the arm (B) is receivable within two elongated plate members (E) of the arm (B) when the arm (B) is inoperative, as per claims 9 and 14;

The means (F) for pivoting the arm comprising a fluid actuated cylinder, as per claim 10;

The arm (B) having a jagged edge (C), as per claim 15.

However, Hawkins fails to disclose a second member having a yieldably biased, transversely displaceable protuberance tripable upon engagement by the one of the arm and receivable in the recess when the arm member is pivoted between the operative and inoperative positions; and

a curved button protuberance receivable in the recess, the button biased outwardly by a spring, as per claim 11; and

- a bracket having a pair of outwardly, yieldingly biased protuberances
- recesses registerable with the protuberances in a snap-fit manner, as per claim 12
- the biasing force exerted on the protuberance sufficient to yieldably bias the protuberance in the recess yet insufficient to retain the protuberance therein upon pivoting from the inoperative to the grappling position, as per claim 13.

Kaczmarczyk et al. teaches the use of an outwardly, yieldingly biased curved button protuberance (54) and recess (60) registerable in a snap-fit manner with the protuberance (54) and tripable upon engagement by the piece (28) and receivable in the recess (60), a spring (66) biasing the protuberances (54);

- the biasing force exerted on the protuberance (54) sufficient to yieldably bias the protuberance (54) in the recess (60) yet insufficient to retain the protuberance (54) therein upon pivoting from the inoperative to the grappling position, as per claim 13.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the connection of Kaczmarczyk et al. on the device of Risch in order to provide a releasably retaining coupling.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

/Alicia M Torres/
Patent Examiner, Art Unit 3671
September 15, 2008

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	10/786,295	CLAPPER, JOHN W.	
	Examiner	Art Unit	
	ALICIA M. TORRES	3671	